

FRANK N. DARRAS #128904
MICHAEL B. HORROW #162917
SHERNOFF BIDART & DARRAS, LLP
3257 E. Guasti Road, Suite 300
Ontario, CA 91761
Telephone: (909) 390-3770
Facsimile: (909) 974-2121
Email: fdarras@sbd-law.com
Email: mhorrow@sbd-law.com

Attorneys for Plaintiff KATHY MC MAHON

ROBERT F. KEEHN #115848
GALTON & HELM, LLP
500 South Grand Avenue, Suite 1200
Los Angeles, CA 90071-2624
Telephone: (213) 629-8800
Facsimile: (213) 629-0037
Email: rkeehn@galtonhelm.com

Attorneys For Defendant CONTINENTAL CASUALTY COMPANY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

KATHY MC MAHON,

Plaintiff,

vs.

CONTINENTAL CASUALTY
COMPANY,

Defendant.

Case No.: C05-01292 CRB
[Honorable Charles R. Breyer]

**JOINT STIPULATION RE
CONTINUANCE OF FURTHER
CASE MANAGEMENT
CONFERENCE AND MEDIATION
COMPLETION DATE;
PROPOSED ORDER**

Date Action Filed : 2/17/05
Trial Date : Not Set

1 TO THE HONORABLE COURT AND TO ALL PARTIES HEREIN AND
2 THEIR ATTORNEYS OF RECORD:

3 Plaintiff Kathy Mc Mahon (hereinafter "MC MAHON") and Defendant
4 CONTINENTAL CASUALTY COMPANY, (hereinafter "CNA"), by and through
5 their respective counsel of record, hereby stipulate and respectfully request that the
6 Further Case Management Conference and Mediation Completion dates in this
7 matter currently scheduled for December 2, 2005 be continued for approximately
8 60 days. The parties are working diligently to resolve this matter and therefore
9 respectfully request a 60 day continuance.

10 The parties have been attempting to coordinate mutually convenient dates to
11 mediate this case with a private mediator, prior to the court ordered completion
12 date of December 2, 2005, however, due to calendar conflicts the parties were
13 unable to coordinate and schedule a mutually available date before the December
14 2, 2005 deadline. Accordingly, the parties request a 60 day continuance of the
15 Further Case Management Conference and Mediation Completion dates, in order
16 to allow the parties to participate in the mediation process and resolve this matter.

17 If the Court approves the parties' Stipulation and Request for Continuance,
18 the parties propose the following date of February 3, 2006 (or a date thereafter as
19 may be convenient to the Court):

20 1. The above captioned action was filed in the United States
21 District Court, Northern District of California on February 17, 2005, and served on
22 March 1, 2005. The case involves disputes regarding benefits under a Disability
23 Income Policy provided to MC MAHON by CNA.

24 2. On April 26, 2005, CNA filed an Answer to the Complaint.

25 3. Counsel for the parties conducted an Early Meeting of Counsel
26 pursuant to FRCP § 26(f), and subsequently exchanged documents and identified
27 known witnesses. The parties filed a Joint Report of Early Meeting of Counsel on
28 August 16, 2005.

1 4. In its August 26, 2005 Order after Hearing, the Court set a Further
2 Case Management Conference and Mediation Completion dates for December 2,
3 2005.

4 5. The parties have been attempting to coordinate mutually convenient
5 dates to mediate this case with a private mediator, prior to the court ordered
6 completion date of December 2, 2005, however, due to calendar conflicts the
7 parties were unable to coordinate and schedule a mutually available date before the
8 December 2, 2005 deadline. Accordingly, the parties request a 60 day continuance
9 of the Further Case Management Conference and Mediation Completion dates, in
10 order to allow the parties to participate in the mediation process and resolve this
11 matter.

12 6. Rule 6(b) of the Federal Rules of Civil Procedure ("FRCP") gives the
13 Court wide discretion to regulate pre-trial matters and manage its calendar.
14 Furthermore, pursuant to FRCP 16(b), the parties may obtain relief from a
15 discovery cut-off date by demonstrating good cause for an extension. As set forth
16 herein, good cause exists for extensions of the Mediation Completion date
17 currently set in this action, and since the Court has wide discretion in its regulation
18 of these matters, it has wide discretion to enter an Order pursuant to this
19 Stipulation.

20 For all the stated reasons above, IT IS HEREBY STIPULATED AND
21 AGREED by and between the parties and their respective counsel of record, and it
22 is respectfully requested that the Court permit and enter an Order to continue the
23 Further Case Management Conference and Mediation Completion dates currently
24 scheduled for December 2, 2005 for an additional 60 days to the dates set forth
25 herein.


26 Additionally, the parties and their respective counsel of record, hereby
27 stipulate and respectfully request that Plaintiff's counsel, MICHAEL B. HORROW
28 appear telephonically via (951) 966-5958 and Defendant's counsel, ROBERT F.

1 KEEHN appear telephonically via (213) 629-8800 for the Further Case Management
2 Conference.

3 For the reasons stated above, IT IS HEREBY STIPULATED AND AGREED
4 by and between the parties and their respective counsel of record, and it is respectfully
5 requested that counsel for Plaintiff and Defendant appear telephonically.

6
7 DATED: November 15, 2005

SHERNOFF BIDART & DARRAS, LLP

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10 FRANK N. DARRAS
11 MICHAEL B. HORROW
12 Attorneys for Plaintiff

13 DATED: November 15, 2005

GALTON & HELM LLP

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16 ROBERT F. KEEHN
17 Attorneys for Defendant

18 **ORDER**

19 Pursuant to the stipulation of the parties and their respective counsel, IT IS
20 HEREBY ORDERED that the Further Case Management Conference and
21 Mediation Completion dates currently set for December 2, 2005 be continued to
22 February 17, 2006 at 8:30 a.m.

23
24 **IT IS SO ORDERED.**

25
26 DATED: November 16, 2005

27 JUDGE C
28 UNITED

